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Counsel for Defendants
Robert Bosch GmbH
Robert Bosch LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION

MDL DOCKET NO. 2672 CRB (JSC)

This Document Relates to:
ALL VOLKSWAGEN-BRANDED FRANCHISE
DEALER ACTIONS

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING MOTION OF
DEFENDANTS ROBERT BOSCH
GMBH AND ROBERT BOSCH LLC
FOR RELIEF UNDER PRETRIAL
ORDER NO. 12**

The Honorable Charles R. Breyer

1 In accordance with Civil Local Rule 6-2 and 7-12, Defendants Robert Bosch GmbH and
 2 Robert Bosch LLC (the “Bosch Defendants”) and Hagens Berman Sobol Shapiro LLP (“plaintiffs’
 3 counsel”) (collectively, the “Parties”), through their undersigned counsel, hereby agree and stipulate
 4 to the following:

5 WHEREAS, on February 3, 2017, the Bosch Defendants filed a Motion for Relief Under
 6 Pretrial Order No. 12 against Hagens Berman Sobol Shapiro LLP (the “Motion”) (ECF No. 2861);

7 WHEREAS, plaintiffs’ counsel filed their response to the Motion on February 17, and the
 8 Motion is currently docketed for hearing on March 17, 2017;

9 WHEREAS, the court in *In re Mercedes-Benz Emissions Litigation*, No. 2:16-cv-881-JLL-
 10 JAD (D.N.J.) (“*Mercedes-Benz*”) has effectively stayed further proceedings in that case until the
 11 Motion is resolved;

12 WHEREAS, the Parties hope to obviate the need for further briefing, hearing, and decision of
 13 the Motion through the steps contemplated by this Stipulation;

14 WHEREAS, plaintiffs’ counsel desires to advance *Mercedes-Benz*, and the Parties agree that
 15 it would be in the interests of judicial economy to suspend the Motion pending completion of the
 16 steps contemplated by this Stipulation.

17 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the
 18 Parties hereto, through their respective counsel of record, that, subject to the Court’s approval:

- 19 1. Plaintiffs’ counsel shall amend the current complaints in *Chavez v. FCA US LLC*, No. 3:16-
 20 CV-6909-EMC (N.D. Cal.), *In re Mercedes-Benz Emissions Litigation*, No. 2:16-cv-881-
 21 JLL-JAD (D.N.J.), and *Carpenter v. FCA US LLC*, No. 5:17-cv-288-EMC (N.D. Cal.),
 22 consistently with paragraph 3 of this Stipulation.
- 23 2. If written consent or Court approval is necessary for plaintiffs’ counsel to amend their current
 24 complaints in the *Chavez*, *Mercedes-Benz*, and *Carpenter* actions, any Bosch Defendant that
 25 has been served in such action (a) shall provide written consent to allow amendment of the
 26 complaint under Fed. R. Civ. P. 15(a)(2), and (b) if such written consent is withheld by non-
 27 Bosch defendants in any such actions, then shall state in writing that it has no objection to a
 28

- 1 motion filed by plaintiffs' counsel for leave to amend the current complaint in the respective
2 action.
- 3 3. In any amended complaints plaintiffs' counsel file in the *Chavez*, *In re Mercedes-Benz*, and
4 *Carpenter* actions, plaintiffs' counsel and all those acting in concert with them shall excise
5 all references to documents that were produced as Confidential or Highly Confidential under
6 the Protective Order and remain subject to the Protective Order's prohibition against use
7 outside of the MDL, and shall also excise all factual allegations derived therefrom, including
8 all citations to, quotations from, reliance upon, or characterization of such documents and
9 any other information from this MDL that remain subject to the Protective Order's
10 prohibition against use outside of the MDL.
- 11 4. Further proceedings on the Motion, including further briefing and hearing, shall be
12 suspended pending completion of the steps contemplated by paragraphs 1-3 of this
13 Stipulation.
- 14 5. Following implementation of the steps contemplated by this Stipulation, the Parties shall file
15 a further stipulation apprising the Court that the Motion has become moot. If within 30 days
16 of this Stipulation the Parties are unable to reach agreement that the Motion has become
17 moot, either party may seek further relief from the Court, whether in the form of relief under
18 the Motion or the Protective Order, dismissal of the Motion as moot, or otherwise.
- 19 6. If the Motion is dismissed as moot, (a) the Parties shall bear their own costs of the Motion
20 and compliance with the Stipulation, and (b) such dismissal shall be without prejudice to the
21 right of the Bosch Defendants to seek in the future to enforce the terms of the Protective
22 Order.
- 23 7. Capitalized terms not otherwise defined in this Stipulation shall have the meanings given in
24 the Motion.
- 25 8. This Stipulation is not and shall not be construed as an admission of wrongdoing by any
26 party, nor as a waiver of any of the above-named Parties' jurisdictional, substantive, or
27 procedural rights and remedies in connection with the above-captioned proceedings, all of
28 which are hereby expressly reserved.

1 IT IS SO STIPULATED.

2 Dated: February 21, 2017

3 CLEARY GOTTLIEB STEEN & HAMILTON LLP

4 By: /s/ Matthew D. Slater

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23 *J. Bertolet, Inc.*

24 * * *

25 PURSUANT TO STIPULATION, IT IS SO ORDERED.

26 Dated: February 22, 2017

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28 Honorable Charles R. Breyer
UNITED STATES DISTRICT JUDGE